

Attachment A

Recommended Conditions of Consent
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SCHEDULE 1 - DEFERRED COMMENCEMENT CONDITIONS (CONDITIONS TO BE SATISFIED PRIOR TO CONSENT OPERATING)

The following deferred commencement conditions must be satisfied prior to the consent becoming operative:

(A) PART A - DEFERRED COMMENCEMENT CONDITIONS

(CONDITIONS TO BE SATISFIED PRIOR TO CONSENT OPERATING)

The consent is not to operate until the following condition is satisfied, within **24 months** of the date of this determination:

(1) VOLUNTARY PLANNING AGREEMENT

- (a) The Voluntary Planning Agreement between the Council of the City of Sydney and Maxso Pty Limited, Alan Yazbek Investments Pty Limited and Orfanos Investments Pty Limited which was placed on public exhibition between 6 May 2019 and 3 June 2019 shall be executed and submitted to Council; and
- (b) The Voluntary Planning Agreement, as executed, must be registered on the title of the land.

(2) Evidence that will sufficiently enable Council to be satisfied as to those matters identified in deferred commencement conditions, as indicated above, must be submitted to Council within 24 months of the date of determination of this deferred commencement consent failing which, this deferred development consent will lapse pursuant to section 4.53(6) of the Environmental Planning and Assessment Act 1979.

(3) The consent will not operate until such time that the Council notifies the Applicant in writing that deferred commencement consent conditions, as indicated above, have been satisfied.

(4) Upon Council giving written notification to the Applicant that the deferred commencement conditions have been satisfied, the consent will become operative from the date of that written notification, subject to the conditions of consent, as detailed in Part B Conditions of Consent.

(B) PART B – CONDITIONS OF CONSENT

SCHEDULE 1A

APPROVED DEVELOPMENT/DESIGN MODIFICATIONS/COVENANTS AND CONTRIBUTIONS

Note: Some conditions in Schedule A are to be satisfied prior to issue of a Construction Certificate and some are to be satisfied prior to issue of Occupation Certificate, where indicated.

(1) STAGED DEVELOPMENT APPLICATION

Pursuant to Clause 100 of the *Environmental Planning and Assessment Regulation 2000*, this Notice of Determination relates to a concept development application and a subsequent development application or applications are required for any work on the site.

(2) APPROVED DEVELOPMENT

- (a) Development consent is limited to a concept plan building envelope of eight storeys and indicative land uses including office premises, shop and ancillary car parking, generally in accordance with Development Application No. D/2018/1208 dated 5 October 2018 and the following drawings prepared by Candalepas Associates:

Drawing Number	Drawing Name	Date
DA_S1-1101, Issue C	Ground Floor Plan (Building Envelope)	27 March 2019
DA_S1-1102, Issue C	Level 1 (Parking) Floor Plan (Building Envelope)	27 March 2019
DA_S1-1104, Issue C	Level 3 Floor Plan (Building Envelope)	27 March 2019
DA_S1-1105, Issue C	Level 4-8 Floor Plan (Building Envelope)	27 March 2019
DA_S1-1106, Issue C	Roof Plan (Building Envelope)	27 March 2019
DA_S1-1301, Issue C	Elevation – East (Building Envelope)	27 March 2019
DA_S1-1302, Issue C	Elevation – South (Building Envelope)	27 March 2019

Drawing Number	Drawing Name	Date
DA_S1-1303, Issue C	Elevation – West (Building Envelope)	27 March 2019
DA_S1-1304, Issue C	Elevation – North (Building Envelope)	27 March 2019
DA_S1-1201, Issue C	Section (Building Envelope)	27 March 2019
DA_S1-1202, Issue C	Section (Building Envelope)	27 March 2019

and as amended by the conditions of this consent.

- (b) In the event of any inconsistency between the approved plans and supplementary documentation, the plans will prevail.

(3) MATTERS NOT APPROVED

The following matters are not approved and do not form part of this concept development consent:

- (a) any demolition, excavation and/or construction works;
- (b) the precise quantum of floor space;
- (c) the proportion of land uses;
- (d) the second level of above ground car parking;
- (e) the numbers, configuration and layout of any above ground car parking levels;
- (f) physical tree removal;
- (g) the number of storeys contained within the building envelope; and
- (h) a design excellence uplift in floor space ratio.

(4) DETAILED DESIGN OF BUILDING

- (a) The detailed design development application must address the following requirements:
 - (i) A deep soil zone with a minimum area of 69sqm and minimum dimension of 3m must be provided within the approved building envelope.

- (ii) The amount of car parking located above ground shall be limited to a single level, with only 50% of the permitted car parking able to be accommodated as above ground car parking in accordance with the provisions of Section 5.2.12 of the Sydney Development Control Plan 2012.
 - (iii) Any above ground car parking must be designed to be adaptable and must comply with the provisions contained in Sections 3.11.14 and 5.2.12 Sydney Development Control Plan 2012 (SDCP 2012). Any above ground car parking is required to be appropriately screened while still achieving a high quality facade which contributes to the streetscape and meets the provisions for design excellence contained in Clause 6.21 of Sydney Local Environment Plan 2012.
 - (iv) The north facade, particularly at ground level, must be designed to provide visual interest and activation to the future Liveable Green Network.
 - (v) The detailed design is to minimise and mitigate the potential for blank walls particularly where they adjoin the property boundary with 189 Wyndham Street and 9-13 Bourke Road, Alexandria.
 - (vi) Any required substation is to be integrated into the fabric of the building and must not be a free standing kiosk substation. The substation should not compromise activation of the streetscape or public domain.
 - (vii) Enclosures and screening of any plant and essential services are to be of high material quality equal in standard to the façade.
 - (viii) The floor to ceiling heights and floor to floor heights must comply with the minimum heights specified in Section 4.2.1.1 of SDCP 2012.
 - (ix) The provision of a green wall/s should be explored in accordance with the provisions of Section 5.8.7.4 of SDCP 2012.
- (b) The competitive design process brief shall incorporate the above design requirements.

(5) BUILDING ENVELOPE

Subject to the other conditions of this consent, the building envelope is only approved on the basis that the ultimate building design, including services, shading devices and the like will be entirely contained within the approved envelope and provide an appropriate relationship with neighbouring buildings.

(6) FLOOR SPACE RATIO

- (a) The Floor Space Ratio of the proposal must not exceed the maximum permitted under Clauses 4.4, 6.13 and 6.14 calculated in accordance with the Sydney Local Environmental Plan 2012.

- (b) Notwithstanding (a), the proposal may be eligible for up to 10% additional floor space pursuant to the provisions of Clause 6.21(7) of the Sydney Local Environmental Plan 2012 if the consent authority is satisfied that the resulting detailed design development application exhibits design excellence and is the result of a competitive design process.

(7) BUILDING HEIGHT

The maximum building height including all roof top plant and equipment, enclosures, parapets and lift overruns must not exceed 35m as defined in Sydney Local Environmental Plan 2012.

(8) COMPETITIVE DESIGN PROCESS

A competitive design process in accordance with the provisions of the Sydney Local Environmental Plan 2012 shall be:

- (a) conducted in accordance with 'Design Excellence Strategy for 5-7 Bourke Road, Alexandria' dated April 2019 and prepared by SJB Planning (Council ref: 2019/194003); and
- (b) conducted prior to the lodgement of a detailed design (Stage 2) development application for the site.

The detailed design of the building must exhibit design excellence, in accordance with Clause 6.21 of Sydney Local Environmental Plan 2012.

(9) COMPLIANCE WITH VOLUNTARY PLANNING AGREEMENT

The terms of the planning agreement entered into in accordance with Deferred Commencement Condition 1 are to be complied with.

(10) ECOLOGICALLY SUSTAINABLE DEVELOPMENT

Details are to be provided with the subsequent development application for the detailed design of the building to confirm that the building has adopted the proposed ESD targets set out in the ESD Report prepared by Greenview Consulting (Project No 180666, Revision B) and dated 12 April 2019. The ESD targets are to be carried through the competitive process phase, design development, construction, and through to completion of the project.

Details are to be provided with the subsequent development application for the detailed design of the building to confirm that the building has adopted the following proposed ESD targets reflected in the Design Excellence Strategy referred to in Condition 8:

- (a) a NABERS Energy Commitment Agreement targeting a minimum of 5.5 stars or better;
- (b) Shading to limit solar gain on the north façade glazing (at a minimum);
- (c) Installation of Solar Photovoltaic (PV) system targeting a system size of 60kW on the roof top; and
- (d) Rainwater collection used for non-potable water uses.

The ESD targets are to be carried through the competition phase, design development, construction, and through to completion of the project.

(11) PUBLIC ART

- (a) Public art is to be provided as part of any detailed design development application in accordance with the 'Public Art Strategy', prepared by SJB Planning and dated 2 April 2019.
- (b) The requirement to accommodate public art as part of the redevelopment of the site must form part of the competitive design process brief and the nominated location should be included as part of any future detailed design application.

(12) FLOOD PLANNING LEVELS

The future detailed design development application must demonstrate compliance with the following flood planning levels shall be applied to design of buildings and structures on the site:

- (i) Business/Shop floor level – 1% AEP flood level;
- (ii) Above ground car park – 1% AEP flood Level;
- (iii) Substation and fire control room (subject to the approval of the relevant authority); and
- (iv) Any below-ground car park – 1% AEP flood Level + 0.5m or the PMF (whichever is higher).

(13) BICYCLE PARKING AND END OF TRIP FACILITIES

- (a) Any subsequent development application for the detailed design of the building must include a Bicycle Parking Plan and End of Trip Facilities are to be provided in accordance with Section 3.11.3 of the SDCP 2012.
- (b) The layout, design and security of bicycle facilities must comply with the minimum requirements of Australian Standard AS 2890.3:2015 Parking Facilities Part 3: Bicycle Parking Facilities and 'Austroads Bicycle Parking Facilities: Guidelines for Design and Installation' document.
- (c) Class 2 (also known as Class 'B' bicycle parking is required for residential bicycle parking.

(14) LAND CONTAMINATION

- (a) No development works are to be undertaken on the site until such time as a detailed design (stage 2) development application has been submitted to and approved by the City.
- (b) The detailed design development application must include documentation that demonstrates the requirements of State Environmental Planning Policy No 55 are addressed. To address the requirements of SEPP No 55 the hierarchy of assessment may include but not be limited to the following:

- (i) Preliminary Environmental Site Assessment (PESA) (Also known as Stage 1)
- (ii) Detailed Environmental Site Assessment (DESA) (Also known as Stage 2)
- (iii) Remediation Action Plan (RAP)
- (iv) Review by NSW EPA Site Auditor
- (v) Site Validation Report
- (vi) Site Audit Statement (SAS)

(15) ACID SULPHATE SOILS

As part of any detailed development application, one of the following must be provided:

- (a) Evidence that an acid sulphate soils management plan is not required;
or
- (b) An acid sulphate soils management plan.

(16) TRANSPORT IMPACT STUDY

A transport impact study is required to be submitted as a part of the subsequent detailed development application to demonstrate that the traffic generation from the revised development will not impact adversely on the adjacent road network. In estimating trip generation Sydney average value from the RMS technical direction TDT 2013/04a should not be used. Trip generation coefficient from comparable sites (such as Rockdale in the RMS document) or survey data from similar site should be used in the assessment.

(17) ON SITE LOADING AREAS AND OPERATION

The detailed development application must ensure all loading and unloading operations associated with servicing the site, including garage collection, can be carried out within the confines of the site, at all times and must not obstruct other properties/units or the public way.

At all times the service vehicle docks, car parking spaces and access driveways must be kept clear of goods and must not be used for storage purposes, including garbage storage.

A service and delivery vehicle space(s) must be provided in addition to the single loading dock. Any car lift to the car parking level shall be designed to carry a small delivery vans in addition to cars.

(18) SERVICE VEHICLE SIZE LIMIT

The detailed design development application must include swept paths for the largest vehicles to access the site in a forward in and forward out direction.

(19) WASTE COLLECTION

The detailed design development application must demonstrate compliance with the City's Guidelines for Waste Management in New Developments. The design of the building must ensure that it can accommodate onsite waste collection, including meeting the requirements set out in section 3.11.13 of Sydney Development Control Plan 2012.

(20) LAND DEDICATION – NO LONG TERM ENVIRONMENTAL MANAGEMENT PLAN

Any land that is to be dedicated to the City as part of the associated Voluntary Planning Agreement must be remediated as required and not be encumbered by an Environmental Management Plan or Long Term Environmental Management Plan.

SCHEDULE 2

PRESCRIBED CONDITIONS

The prescribed conditions in accordance with Division 8A of the *Environmental Planning and Assessment Regulation 2000* apply:

- Clause 98 Compliance with *Building Code of Australia* and insurance requirements under the *Home Building Act 1989*
- Clause 98A Erection of signs
- Clause 98B Notification of *Home Building Act 1989* requirements
- Clause 98C Conditions relating to entertainment venues
- Clause 98D Conditions relating to maximum capacity signage
- Clause 98E Conditions relating to shoring and adequacy of adjoining property

Refer to the NSW State legislation for full text of the clauses under Division 8A of the *Environmental Planning and Assessment Regulation 2000*. This can be accessed at: <http://www.legislation.nsw.gov.au>